

SUNRISE, FLORIDA

RESOLUTION NO. 02-114

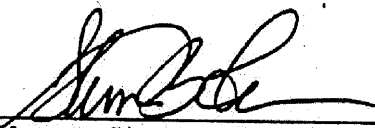
A RESOLUTION OF THE CITY OF SUNRISE, FLORIDA, APPROVING AN ALL REQUIREMENTS GAS SERVICES AGREEMENT BETWEEN THE CITY AND FLORIDA GAS UTILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SUNRISE, FLORIDA:

Section 1. An All Requirements Gas Services Agreement between the City and Florida Gas Utility is hereby approved. A copy of the Agreement is attached to and made a part of this resolution as Exhibit "A." The Finance Director, or a designee, is hereby appointed as the City's Member Representative pursuant to Section 28 of the Agreement. The City Attorney is authorized to finalize the terms of the Agreement, including any attachments.

Section 2. Effective Date. This Resolution shall be effective immediately upon its passage.

PASSED AND ADOPTED THIS 11th DAY OF JUNE, 2002.



Mayor Steven B. Feren

Authentication:


Felicia M. Bravo
City Clerk

MOTION: SCUOTTO
SECOND: ALU

ALU: YEA
HARLEM: YEA
ROSEN: YEA
SCUOTTO: YEA
FEREN: YEA

Approved by the City Attorney
as to Form and Legal Sufficiency

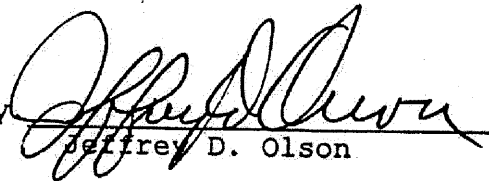

Jeffrey D. Olson

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ALL REQUIREMENTS GAS SERVICES AGREEMENT

This ALL REQUIREMENTS GAS SERVICES AGREEMENT ("Agreement") made and entered into as of _____, 200__, by and between FLORIDA GAS UTILITY, a public body corporate and politic formed under the Florida Interlocal Cooperation Act ("FGU") and the CITY OF SUNRISE, FLORIDA, a municipal corporation of the State of Florida ("Member").

WITNESSETH:

WHEREAS, FGU was formed by Interlocal Agreement on September 1, 1989, which was subsequently amended by the Amended Interlocal Agreement on June 1, 1992, and thereafter amended and restated by Amended and Restated Interlocal Agreement dated as of July 1, 1996, and thereafter amended and restated by Second Amended and Restated Interlocal Agreement dated as of July 27, 1999 (the "Interlocal Agreement"); and

WHEREAS, in order to take advantage of perceived opportunities created by the restructuring of natural gas services, FGU was established between and among several public agencies for the purpose of achieving savings through joint services for, or which otherwise benefit, its Members; and

WHEREAS, FGU will take or cause to be taken all steps necessary for the acquisition of, and will undertake such contractual arrangements necessary to secure, a suitable supply of Gas or a suitable pricing mechanism including Financial Products, or both, under one or more Gas Purchase Contracts or Financial Instruments, and will provide the Gas and pricing mechanism and services pursuant to this Agreement and/or other related or suitable Financial Instruments, and pursuant to agreements similar to this Agreement and related or suitable Financial Instruments with other Members, all as hereinafter defined; and

WHEREAS, in order to enable FGU to provide its services hereunder and to pay the Cost of Services and Monthly Costs provided for herein, FGU may have substantially similar All Requirements Gas Services Agreements with some or all of its Members and, in such event, such Member's obligations under any previous Gas Services Agreement shall cease; and

WHEREAS, Article VI of the Interlocal Agreement authorizes the Board of FGU to undertake a Special Project, and it is intended that unless

each of its Members shall become a party to substantially similar agreements, the undertakings pursuant to this Agreement shall be treated as a Special Project.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, it is agreed by and between the parties hereto as follows:

SECTION 1. Definitions and Explanations of Terms.

As used herein:

Addendum or Addenda shall mean an instrument or instruments, in writing, sufficient to amend, add to or otherwise modify this Agreement or any part thereof, which may be used to create a Special Project, and which term shall include a Directive by a Member Representative that implements some part or all of this Agreement.

Aggregated Transportation Contracts shall have the meaning ascribed to that term in Section 3(e).

Agreement shall mean this All Requirements Gas Services Agreement and/or any other related or suitable Financial Instruments that may accompany this Agreement or be appropriate for the purposes to be achieved by this Agreement.

All Requirements Gas Services Agreements shall mean this All Requirements Gas Services Agreement and, as appropriate, the substantially similar All Requirements Gas Services Agreements, between FGU and some or all of its other Members.

Annual Budget shall mean the budget adopted by the Board of FGU pursuant to paragraph (a) of Section 10, or, in the case of an amended Annual Budget adopted by the Board or Executive Committee of FGU, during the remainder of a Fiscal Year.

Approved Rate Tariff shall mean the tariff for the transportation of Gas as approved by FERC or the governmental or other entity charged with this responsibility.

Board shall mean the Board of Directors of FGU or if said Board shall be abolished, its successor board, body, commission or agency succeeding to the principal functions thereof.

Commencement Date shall mean the first date on which FGU shall make Gas available to, or the effective date of any Financial Instrument

entered into for the benefit of, Member pursuant to this Agreement or any Special Project authorized hereby.

Cost of Services shall mean all costs of planning, financing, pricing, acquiring, transporting, storing and implementing the supply of Gas hereunder, or the utilization of any Financial Product pursuant to any Financial Instrument, which shall include, but shall not be limited to, funds for:

(1) the payment of costs and expenses incurred for or in connection with the acquisition and/or pricing of the services provided under this Agreement or with respect to Gas or other services, provided under any other agreement;

(2) all federal, state and local taxes and payments in lieu of taxes required to be paid with respect to the services rendered pursuant to this Agreement;

(3) all costs and expenses relating to claims or judgments (including injury and damage claims) relating to the operations of FGU;

(4) all planning and development costs, engineering fees, contractors' fees, costs of obtaining governmental or regulatory permits, licenses and approvals, costs of real property, labor, materials, equipment, supplies, training and testing costs, insurance premiums, legal, consulting and financing costs, administrative and general costs, and all other costs properly allocable to the acquisition and implementation of the services provided under this Agreement;

(5) all other costs incurred in connection with and properly chargeable to, the acquisition or implementation of the services provided under this Agreement, including any prepayment of operating expenses required under this Agreement and amounts required to be paid by FGU under any contract to which it is a party in respect of Financial Products authorized hereunder or by Financial Instruments, implemented in accordance with the Financial Derivatives Policy adopted by the Board of FGU; and

(6) the allowance for working capital or any other reserve requirements of FGU and all costs relating thereto, and the cost of credit facilities or enhancements, in such amounts as shall be deemed reasonably necessary by FGU as determined in accordance with the Reserve Obligation Policy and Credit Policy adopted by the Board of FGU.

Designee shall mean FGU as the contractually authorized agent of a Member as defined in the general terms and conditions of Transporter's Approved Rate Tariff.

Division shall mean a Member of FGU, and the associated Point(s) of Delivery of that Member, whose transportation entitlements have been aggregated under one transportation contract held by FGU to which Transporter's Approved Rate Tariff applies.

Directive shall mean an instrument, in writing, executed and delivered by a Member Representative that gives directions to FGU hereunder, or otherwise authorizes actions by FGU hereunder, or implements all or a part of this Agreement, and upon which FGU may rely as being duly authorized, executed and delivered by Member. A Directive may be given by an Addendum.

Excluded Resources shall mean those facilities consisting of future power plant(s) co-developed by Member with a third party where natural gas is supplied by said third party as a part of the development agreement. Such facilities shall be described in Exhibit D, attached, or shall be added as an Addendum to this Agreement at such time as such co-development shall occur.

Financial Instrument shall mean an agreement entered into with respect to the purchase or pricing of Gas or other services provided hereunder that provides for Financial Products by and between the parties thereto that may include FGU, or Member, or both, any other Member and any third parties or counterparties; provided that a Member or Member Representative is required to authorize a Financial Instrument that obligates only such Member.

Financial Products shall mean futures contracts, commodity swaps and hedging arrangements related to the pricing or supply of Gas or other services provided hereunder, whether entered into by FGU, or by Member and/or FGU, including balancing or similar agreements or interest rate exchanges or swaps, cash flow exchanges, options, caps, floors or collars implemented in accordance with the Financial Derivatives Policy adopted by the Board of FGU. Such Financial Products may have characteristics similar to those set forth in Exhibit A hereto.

Fiscal Year shall mean the twelve (12) month period commencing at 12:01 a.m. on October 1 of each year, or with respect to a Special Project, as may be specified for that project.

Gas shall mean pipeline quality natural gas supplied pursuant to this Agreement with the quality provisions set forth in the general terms and conditions of Transporter's Approved Rate Tariff, or any equivalent standard.

Gas Allocation Share shall mean the Gas or other undertakings allocated to each Member in the manner provided by Section 3(b) of this Agreement.

Gas Purchase Contract shall mean one or more gas purchase contracts (including amendments thereto) entered into between FGU and one or more Gas suppliers or owners of interests in Gas.

Member or Members shall mean the Member specified in the first paragraph of this Agreement and one or more parties, other than FGU, to All Requirements Gas Services Agreements substantially similar to this Agreement. An initial list of such Members is set forth in Appendix 1 hereto.

Member Representative shall mean the Member Representative as provided in Section 28 hereof.

Month shall mean a calendar month.

Monthly Costs shall mean, with respect to each Month of each Fiscal Year, all costs that are paid or incurred by FGU during such Month directly or indirectly with respect to the purchase, pricing, supply, storage or transportation of Gas to Members under and pursuant to the Gas Purchase Contract, Financial Instruments, Transportation Contracts or otherwise, as hereinafter provided, including without limitation, the following items of cost:

(1) the costs, as determined in accordance with the Pricing Policy adopted by the Board of FGU, of

- (i) Gas supply purchased by Member under this Agreement pursuant to the Gas Purchase Contract, or any other instrument;
- (ii) Gas transportation to the Point(s) of Delivery pursuant to the Transportation Contracts;
- (iii) FGU service charges for its administrative services provided hereunder; and
- (iv) adjustments, and an equitably allocated portion of all FGU's other expenses;

(2) amounts required to be paid by FGU under any contract to which it is a party, including Financial Instruments entered into in respect of Financial Products; unless expressly otherwise provided to the contrary in the Financial Instrument, payments on such obligations shall be allocated to Member in accordance with the Financial Derivatives Policy adopted from time to time by the Board of FGU; provided, however, that Member will not be obligated for any payments on account of any Financial Products without Member's written consent;

(3) any additional amount not specified in the other items of this definition which must be paid by FGU during such Month, as determined in accordance with the Pricing Policy adopted by the Board of FGU, including, without limitation, costs imposed or permitted by any regulatory agency or which are paid or incurred in connection with the supply of services hereunder or the provision of services by FGU to Members;

(4) all costs and expenses (including, but not limited to, legal fees and expenses) relating to personal injury and damage claims and extraordinary costs relating to pipeline, regulatory or other such costs, expenses or assessments required to be paid by FGU in connection with the delivery of services hereunder, as determined in accordance with the Pricing Policy adopted by the Board of FGU;

(5) any reserves FGU determines to be reasonably necessary for payment of those items of costs and expenses incurred in the delivery of services, to the extent not covered by any preceding clause, and in accordance with the Reserve Obligation Policy and Credit Policy adopted by the Board of FGU; and

(6) debt service (including principal, interest and premiums) and all related charges on any line of credit, letter of credit, working capital or other shorter term loans incurred by FGU pursuant to action taken by the Board of FGU. Payments on such obligations shall be allocated to Member in accordance with the Debt Obligation Policy adopted by the Board of FGU.

Notwithstanding the foregoing (except for the matters described in items (5) and (6) of the definition of Monthly Costs in Section 1 above), if an item of cost or expense referred to above or any part thereof shall relate to less than all of Members or shall clearly not be applicable to a Member, such item shall only be included as an item of Monthly Cost with respect to those Members to which such cost or expense relates.

Point or Points of Delivery shall mean the point or points of delivery specified in Appendix 2 hereto or such other point or points of delivery from time to time agreed to between Member and FGU.

Schedule of Members shall mean the Schedule of Members contained in Appendix 1 hereto, or that may be set forth in an Addendum, including an Addendum for a Special Project, as the same may be amended or supplemented from time to time in accordance with the provisions hereof.

Special Project shall mean a project designated by one or more Member Representatives for any of the purposes of this Agreement, and such Member Representatives may, by Addendum to this Agreement, make such changes as shall be agreed by FGU and all Members engaging in a Special Project. Such Special Project shall be designated as a Special Project and shall be given an appropriate identifying number, letter or other designation. This Agreement shall constitute a Special Project unless each Member shall become a party to a substantially similar All Requirements Gas Services Agreement. A Member in a Special Project may be referred to as a "Participant" and the Special Project designation may follow.

System shall mean and refer to a Member's enterprise system, as more particularly described in Exhibit B hereto, which describes those facilities that require or permit the utilization or local distribution of gas, and any additions or improvements thereto, and all other gas utilization or distribution enterprise systems that may be constructed or acquired by Member.

Transportation Contracts shall mean the contract or contracts for the transportation of Gas between FGU, or FGU on behalf of Member, or contracts between Member with the designation of FGU as Member's agent, and Transporter.

Transporter shall mean Florida Gas Transmission Company, Gulfstream Natural Gas Systems, L.L.C., or any other company legally authorized to transport Gas, and its successors in interest.

SECTION 2. Term of Agreement.

This Agreement shall supercede the Gas Services Agreement currently in effect between Member and FGU, and shall be effective on the date first written above and shall continue in full force and effect until the end of the Fiscal Year which expires in the calendar year which next succeeds the calendar year during which written notice of intent to terminate shall be given. Such written notice, if given, shall be given prior to April 1 of a calendar year. Any such termination shall be subject to all contractual restrictions applicable to FGU or Member, and Member shall in all events remain obligated as provided by this Agreement, including Section 3, Section 25 and Section 26 hereof.

SECTION 3. Gas Supply Service and Pricing.

(a) (i) FGU and Member agree that FGU shall, pursuant to this Agreement, furnish gas supplies and pricing methodology for all of Member's gas requirements and requirements for Financial Products for Member's System, except for Member's Excluded Resources, to the extent such supplies can be transported to Member's Point(s) of Delivery under Member's or FGU's Transportation Contracts with Transporter or third parties, including those Transportation Contracts maintained at the offices of FGU.

(ii) Member shall be obligated by this Agreement to purchase all of its gas requirements and related Financial Products for Member's System, except for Member's Excluded Resources, from FGU and from no other source, unless FGU shall be unwilling or unable to provide such gas or related Financial Products to Member, and Member may not otherwise enter into gas purchase arrangements or Financial Products directly or indirectly with any other suppliers.

(b) The General Manager of FGU, in accordance with policies established by the Board of FGU and the requirements of Member, shall determine the sources from which the gas supply services, transportation, pricing, Financial Products and all other services to be provided under this Agreement shall be provided, including the proper mix of firm gas supplies, spot gas supplies and long term gas supplies and the method of pricing therefor, including the undertaking of one or more Financial Products by one or more Financial Instruments in the name of FGU, as obligor for the benefit of all Members who are a party to the All Requirements Gas Services Agreement and the pro rata allocation of such Gas or other undertakings to each such Member with respect thereto.

(c) FGU agrees to and does hereby sell, and Member agrees to and does hereby purchase, Member's Gas Allocation Share pursuant to this Agreement. Member further agrees to become obligated for those Financial Products created by the Financial Instruments in accordance with the terms thereof and hereof.

(d) Member shall be obligated as follows:

(i) The quantity to be supplied by FGU shall be stated on a daily basis and nominated monthly by Member or as

otherwise agreed to in accordance with Section 5(c) hereof.

- (ii) Member shall, in accordance with the Pricing Policy adopted by the Board of FGU, be obligated for its Gas Allocation Share of all Gas Purchase Contracts, including any firm or long term supply of gas including all contracts for supply and all other charges related thereto which are authorized by this Agreement, specifically including all items of the Monthly Costs and obligations for Financial Products under Financial Instruments. No notification from Member of intent to accept less Gas shall be effective with respect to such obligation for such Gas Allocation Share of Member under any such firm or long term Gas Purchase Contracts or Financial Instruments. FGU shall, however, accommodate Member's request with respect to any spot, short term or terminable Gas supply, and shall utilize its best efforts to attempt to dispose of any excess Gas supply to the extent not required by Member.
- (iii) Upon the termination or expiration of this Agreement by Member or in the event of excess Gas supply, a determination shall be made by the Board of FGU as to whether an allocable part of such firm or long term Gas Supply Contracts or Financial Instruments shall remain in the ownership and control of Member and the obligation of Member, or whether such agreements shall remain in the ownership and control of FGU and shall be paid for by FGU. Any right of Member to retain ownership of such allocation shall be subject to the release by the provider of Gas or Financial Product of any liability of FGU or other Members for such contract.

(e) Certain of Members have, pursuant to separate agreements with FGU, aggregated their firm transportation entitlements with other Members (referred to herein as the "Aggregated Transportation Contracts") and have authorized FGU to administer that capacity in the delivery of Gas to each Member. Certain other Members have designated FGU as their agent for the utilization of their respective gas transportation entitlements for the delivery of Gas hereunder.

(f) FGU is hereby authorized, and shall be responsible for utilizing those firm transportation entitlements, to the extent available under the respective Transportation Contracts, to cause Member's Gas to be transported to Member's Point(s) of Delivery and for all operational decisions

and arrangements associated with the transportation of Gas on or upstream of Transporter's pipeline, including but not limited to, transportation along pipelines other than Transporter, selection of Point(s) of Delivery, scheduling, balancing and dispatching of Gas on such pipelines other than Transporter, as well as on Transporter's pipeline.

(g) The administration of the Aggregated Transportation Contract(s) shall be governed solely in accordance with the Pricing Policy adopted by the Board of FGU.

(h) It is understood that the Aggregated Transportation Contract(s) will be operated in a manner which will preserve to each Division, with Member being a Division, a priority right to the use of the firm transportation entitlements which would have been assigned to it in the absence of the Aggregated Transportation Contract(s). Only when Member's capacity rights are not required to meet the requirements of Member, will they be made available to other Divisions in accordance with the Pricing Policy adopted by the Board of FGU. Aggregated Transportation Contract(s) capacity not required by any Division may be temporarily relinquished or otherwise utilized by FGU under the terms of the Approved Rate Tariff and in accordance with the Pricing Policy adopted by the Board of FGU.

(i) Member shall assume full responsibility for payment of actual transportation charges, including demand charges, incurred by the Aggregated Transportation Contract(s) for the benefit of Member. To the extent another Division or customer of FGU may make actual use of Member's transportation rights, a reallocation of demand costs shall be made by FGU in accordance with the Pricing Policy adopted by the Board of FGU.

(j) Member (or other Members or customers) shall be permitted to withdraw all or part of its aggregated firm entitlements from the Aggregated Transportation Contract(s) at any time, without otherwise affecting this Agreement, provided appropriate Transporter consent and FERC authorizations have been obtained.

(k) Because Member requirements change from time to time, FGU will assist in acquiring and/or disposing of transportation entitlements for Member. To the extent Member and FGU agree, FGU will request an allocation of such capacity in its own name; provided, however, that a sub-allocation of such incremental transportation entitlement will also be made to the requesting Member's Division, which shall be binding in the event of later withdrawals of membership or entitlements, or dissolution.

(l) All contracts involving a substantial change in the burdens or benefits of Member entered into with Transporter in the name of the

Aggregated Transportation Contract(s) for the benefit of Member will be subject to approval in advance by both FGU and Member.

(m) Member may retain its transportation contracts with Transporter or other pipeline supplier rather than aggregate some or all of its transportation entitlements as provided above. In this case, the relationship between Member and FGU shall be that of principal and agent and FGU shall in all such cases serve as Designee. FGU shall administer the retained transportation contracts in accordance with its terms as Designee for Member and shall serve in such capacity for the purpose of the administration of such contracts and shall perform the services as provided herein with respect to such Transportation Contracts, in accordance with instructions received from Member.

(n) Member will provide engineering information and support as reasonably requested by Transporter or FGU in order to assure appropriate design, configuration, and installation of facilities in accordance with generally accepted industry standards necessary to serve Member's Point(s) of Delivery.

(o) If Member is temporarily or permanently unable to utilize all or any portion of its share of the Aggregated Transportation Contract(s), the following provisions shall apply:

- (i) As provided in the Transportation Policy, FGU may utilize that portion of Member's unused capacity for use by other FGU members or customers. These other FGU members or customers shall reimburse Member for use of such capacity, as provided in the Pricing Policy adopted by the Board of FGU.
- (ii) To the extent FGU is unable to utilize such excess Member capacity, FGU will, as permitted by the Approved Rate Tariff and applicable FERC regulations and agreements, assist and cooperate with Member to dispose of such excess transportation entitlement so as to avoid or minimize any payment obligations by Member to Transporter or others.
- (iii) Nothing herein shall relieve Member from its obligation to reimburse FGU for costs and expenses incurred by FGU for the released excess capacity for which FGU is not otherwise reimbursed by third parties.

(p) Unless otherwise agreed to by FGU and Member, Member and FGU anticipate that Transporter and third parties will rely on FGU for all

purposes connected with servicing the transportation and purchasing of Gas for Member on Transporter's system or otherwise, including, but not limited to, the furnishing and receipt of information concerning daily nominations, scheduling, balancing, Point(s) of Delivery, invoice payment, accounting, third party transportation, and communications with Member, and that operational conditions may allow limited time for communications concerning such matters. To facilitate this process, and except with respect to services covered by the Aggregated Transportation Contract(s), Member agrees to name and hereby designates FGU, or a representative of FGU, as Member's designee to perform Member's obligations with respect to nominations, scheduling and payment under the various Transporter transportation rate schedules under which Member arranges transportation service for Gas purchased from FGU hereunder.

(q) Notwithstanding the foregoing, FGU's responsibilities to arrange for transportation of Gas to Member's Point(s) of Delivery shall be limited to Member's transportation entitlements made available to FGU hereunder and Member shall ultimately be responsible for securing transportation rights with respect to Gas to be delivered hereunder.

(r) Member agrees that except for its obligation under its Gas Supply Contract dated as of November 1, 1998, and any other obligations in existence on the date hereof as set forth on Exhibit C hereto, it will satisfy all of its gas requirements for its System, except for Member's Excluded Resources, from Gas purchased under this Agreement. Member further agrees not to assign its Gas Allocation Share hereunder to any third party without FGU's consent, and then only in accordance with the restrictions set forth in Sections 25 and 26 hereof.

SECTION 4. Method of Payment.

(a) As soon as the billing information is available, FGU shall render to Member, by mail, courier or facsimile or other electronic transmission, a monthly statement showing, in each case with respect to the prior Month (i) the amount payable by Member in respect of Monthly Costs, and (ii) any other amounts payable by such Member pursuant to this Agreement; and such Member shall pay the total of such amounts at the times specified in this Section 4. FGU will provide a calendar of invoice and due dates at the beginning of each Fiscal Year.

(b) Monthly payments required to be paid to FGU pursuant to this Section 4 shall be due and payable to FGU at the principal office of FGU, or such other address as FGU shall designate in writing to Member, on FGU's published due dates, which shall not be later than the ninth (9th) calendar day of the Month in which the statement was rendered.

(c) If payment in full is not made on or before the close of business on the due date, a delayed-payment charge on the unpaid amount due for each day overdue may be imposed at the prime rate of interest as published from time to time by the Wall Street Journal and in effect in the calendar month for which the unpaid balance shall be received, plus 2%, or the maximum rate lawfully payable by Member, whichever is less. If said due date is a Saturday, Sunday or a holiday, the next preceding business day shall be the last day on which payment may be made without the addition of the delayed-payment charge. Failure by Member to pay the full amount due by the due date may result in the suspension of gas supply service by FGU as set forth in Section 15 below.

(d) In the event of any dispute as to any portion of any monthly statement, Member shall nevertheless pay the full amount of the disputed charges when due and shall give written notice of the dispute to FGU not later than thirty (30) days after the date such payment is due. Such notice shall identify the disputed bill, state the amount in dispute and set forth a full statement of the grounds on which such dispute is based. No adjustment shall be considered or made for disputed charges unless notice is given as aforesaid. FGU shall give consideration to such dispute and shall advise Member with regard to its position relative thereto within thirty (30) days following receipt of such written notice. Upon final determination (whether by agreement, arbitration, adjudication or otherwise) of the correct amount, any difference between such correct amount and such full amount shall be properly reflected in the statement next submitted to Member after such determination.

(e) [Intentionally Omitted.]

(f) If FGU is entitled to payments under or in respect of the Gas Purchase Contract (other than payments intended to reimburse FGU for its costs and expenses and other than payments required under any applicable documents), FGU shall distribute such payments or Gas credits to each Member after deducting therefrom any amounts otherwise due by such Members hereunder, all in accordance with the Pricing Policy adopted by the Board of FGU.

(g) Subject to the provisions of paragraph 4(j), the obligation of Member to make the payments under this Agreement for its share of Monthly Costs and other amounts, shall constitute an obligation of Member payable as an operating expense of Member's System solely from the revenues and other available funds of the System.

(h) The obligation of Member to make payments under this Agreement shall not constitute a debt of Member within the meaning of any

constitutional or statutory provision or limitation or a general obligation of or pledge of the full faith and credit of Member, and neither Member nor the State of Florida or any agency or political subdivision thereof shall ever be obligated or compelled to levy ad valorem taxes to make the payments provided for under this Agreement, and the obligation of Member to make payments pursuant to this Agreement shall not give rise to or constitute a lien upon any tangible property of Member or any tangible property located within its boundaries or service area.

(i) If the obligations of Member to make payments under Section 4(g) of this Agreement or any part of the obligation under any Financial Instrument, would not be treated as, or otherwise be accorded the status of, operation and maintenance payments under the provisions of Member's indentures, bond resolutions or other bond documents entered into in connection with the financing of Member's System, such part of such obligations that are precluded such status will be incurred and accorded the treatment in accordance with the provisions of Section 4(j) hereof.

(j) Such part of such obligations for the payment of services hereunder or under a Financial Instrument that is not treated as, or otherwise accorded the status of, operation and maintenance costs of Member's System for the reasons set forth in paragraph 4(i) hereof shall constitute an obligation payable solely from the revenues and other funds of Member's System, which are hereby pledged for such purpose, subject and subordinate to the following obligations of Member that would expressly preclude Member from making the payments required hereunder senior to such obligations (i) operation, maintenance, renewal and replacement expenses of Member's System, (ii) bonds (as well as bond anticipation notes), notes or other obligations for money borrowed, now outstanding or hereafter issued, for System purposes payable from revenues of Member's System, (iii) subordinated bonds, notes or other obligations of the System payable from revenues of Member's System and senior in credit to, or subject to a negative pledge with respect to, the obligations of the type imposed hereby, in each case, outstanding on the date of execution of this Agreement by Member, and (iv) payments required to be made into or from funds established under the ordinances or resolutions authorizing bonds, notes or other obligations referred to in clauses (ii) or (iii) hereof. All such obligations in existence on the date hereof shall be listed on Exhibit C hereto, and all further obligations shall be listed on an amended Exhibit C and delivered to FGU.

(k) If at any time Member has revenue bonds outstanding payable from or secured by a pledge of net revenues of its System, Member agrees that, in connection with any financial tests or conditions for the issuance of additional revenue bonds or other obligations payable from and secured by a pledge of net revenues of its System, Member shall treat all payments made

or estimated to be made to FGU under this Agreement as operating expenses for purposes of computing the amount of net revenues available for the payment of such outstanding revenue bonds and such additional revenue bonds.

SECTION 5. Scheduling of Deliveries; Title.

(a) All of the provisions of this Section 5 are subject to the provisions of any applicable Gas Purchase Contract, and in the event of any inconsistencies between this Section 5 and the provisions of the Gas Purchase Contract governing scheduling, the terms of the Gas Purchase Contract shall govern.

(b) The quantity to be supplied by FGU shall be stated on a daily basis and nominated monthly by Member or as otherwise agreed to in accordance with the provisions hereof.

(c) It will be Member's responsibility to notify FGU of any variations in Member's daily Gas usage rate. Member will provide FGU with its natural gas requirements in such a manner to allow FGU to effectively arrange for the required Gas transportation and associated services and as required by the Gas Purchase Contract, in a timely and cost effective manner for Member. The actual details of such daily and monthly information requirements will be mutually agreed upon by the parties and may change from time to time to meet varying conditions.

Member shall advise FGU of any change in any of the gas requirements at Member's Point(s) of Delivery as soon as is reasonably possible to allow FGU to make necessary adjustments in other Member's or customer's gas volume nominations to avoid imbalances and penalties and to fully comply with the Gas Purchase Contract.

(d) FGU will promptly notify Member of all pipeline operating conditions, including but not limited to operational flow orders and alert days for which Member may be subject to costs or penalties as a result of noncompliance. If Member does not fully comply with such operational requirements, Member will assume full liability for any noncompliance.

(e) Title to the Gas transported for Member with its own transportation contracts will pass to such Member upon and concurrently with the purchase thereof by FGU from the supplier. Title to Gas purchased for transportation under the Aggregate Transportation Contracts will pass upon delivery by FGU to Member at Member's Point(s) of Delivery.

(f) Although FGU may hold title to the Gas during the transportation process to Member's Point(s) of Delivery under paragraph (e)

above, Member shall bear the full risk of loss for all such Gas during such transportation by FGU on Transporter's system or otherwise, including but not limited to, injury, loss or damage caused by the Gas during the transportation thereof and any economic or consequential damages to Member for failure to deliver Gas or otherwise.

Member agrees, to the extent permitted by law, and pro rata with other Members to the extent of its Gas provided hereunder, and/or its Gas Allocation Share, in effect on the date of occurrence of the event giving rise to the claim, to indemnify and hold FGU harmless from any and all losses or damages sustained by FGU, including any and all suits, actions, damages, losses, and expenses arising out of adverse claims of any persons, including Member, to such Gas or the title thereto, regardless of the party responsible for its delivery, or to royalties, taxes, license fees, or charges thereon, and from any and all liability to any persons, including Member, or for any property damage, occasioned by FGU holding title to Gas for benefit of Member during transportation on Transporter's system.

(g) Except as otherwise expressly stated herein or in a Directive or Addendum, neither the scheduling by Member, nor the delivery by FGU of Gas in quantities less than Member's Gas to be purchased hereunder or its Gas Allocation Share, or the curtailment by FGU or the under utilization by Member of its transportation entitlements under any other agreement with FGU or otherwise, shall relieve Member of its payment obligations under this Agreement, including those set forth in Sections 3 and 4 hereof.

SECTION 6. Point(s) of Delivery.

Gas scheduled by Member pursuant to Section 5 of this Agreement will be delivered at Member's Point or Points of Delivery, which Member shall designate to FGU in writing. The quantity of Gas actually delivered to Member shall be adjusted to take into account Gas used or consumed in the transportation thereof to the Points of Delivery.

SECTION 7. Curtailment.

It is understood that, in the event of a capacity curtailment on the Transporter's system or other transportation system used by FGU which causes an interruption of transportation service, curtailment shall be implemented in accordance with Transporter's currently effective curtailment plan.

SECTION 8. Availability of Gas or Gas Allocation Shares.

Except as provided otherwise by this Agreement, and subject to the provisions of the Gas Purchase Contract and any applicable Transportation

Contracts or other transportation arrangements, Member's Gas, or Gas Allocation Share, as the case may be, shall be made available in accordance with this Agreement during the term hereof.

SECTION 9: Insurance.

FGU shall carry such insurance as shall be carried in accordance with customary industry standards.

SECTION 10. Annual Budget; Accounting.

(a) At FGU's annual meeting each year, the Board of FGU shall adopt an Annual Budget for the next ensuing Fiscal Year and shall deliver the Annual Budget to each Member prior to the beginning of each Fiscal Year. During each Fiscal Year, FGU, by action of its Executive Committee, may from time to time amend the Annual Budget.

(b) FGU agrees to keep accurate records and accounts in accordance with generally accepted accounting principles, consistently applied. Said accounts shall be audited annually by a firm of certified public accountants, experienced in governmental accounting and gas utility company accounting and of national reputation, to be employed by FGU. A copy of each annual audit, including all written comments and recommendations of such accountants, shall be furnished by FGU to Member not later than one hundred eighty (180) days after the end of each Fiscal Year. Member shall have the right to audit the books and records of FGU from time to time upon reasonable notice, to the extent necessary to verify the Monthly Costs payable hereunder.

SECTION 11. Information to be Made Available.

(a) Based, in each case, upon the data most recently available to FGU pursuant to the Gas Purchase Contract or Financial Instruments, FGU will furnish or otherwise make available to Member all information related to Gas supply or pricing of Gas, which FGU receives under the Gas Purchase Contract or any Financial Instrument and all transportation costs under the Transportation Contracts, where available to FGU, and will prepare and issue to Members reports each quarter of the Fiscal Year on the status of the Annual Budget.

(b) Member shall, upon request, furnish to FGU all such information, certificates, certified copies of official proceedings, engineering reports, feasibility reports, information relating to its system, Transportation Contracts, financial statements, opinions of counsel (including the opinion required by subsection (c) hereof), official statements and other documents as

FGU shall be reasonably requested to deliver pursuant to the services provided under this Agreement.

(c) Member shall at the time requested by FGU, cause an opinion or opinions (i) in substantially the form attached hereto as Appendix 3 to be delivered by one or more attorneys or firms of attorneys satisfactory to FGU with respect to the authorization, execution and validity of this Agreement or any Financial Instrument, as it relates to Member, and, if Member shall have bonds or other obligations outstanding secured by a pledge of revenues of its System, the legality under the terms and conditions of the ordinance, resolution, indenture or other contractual arrangement with the holders of such bonds, of the performance by Member of its covenants and agreements under this Agreement, and (ii) in such other form as may be required under the Gas Purchase Contract, Financial Instrument or this Agreement.

(d) Member shall provide to FGU, or its designees, on a timely basis and in such form as shall be reasonably requested by either, any and all documents, releases, financial statements and other information necessary to enable FGU to comply with any disclosure or other reporting requirement, including but not limited to Rule 15c2-12 of the Securities and Exchange Commission promulgated under the Securities Exchange Act of 1934 (the "Rule"), now or hereafter imposed by the United States of America, the State of Florida, or any political subdivision or agency of either having jurisdiction over the issuance of any debt obligations for the acquisition of gas, by law, judicial decision, regulation, rule or policy. Such information shall be provided by Member from time to time promptly following the occurrence of a "material event" as described in the Rule, and as otherwise may be requested by FGU, or its designees, but in any case, no less frequently than shall enable FGU or the underwriters or broker/dealers of the obligations of FGU, or such Member, to comply with any such law, judicial decision, regulation, rule or policy.

Member further agrees to enter into a continuing disclosure agreement or other undertaking as may be reasonably required by the original purchaser of those obligations contemplated by clause (6) of the definition of Monthly Cost of Section 1 in order to comply with the Rule.

SECTION 12. Member Covenants.

(a) Member agrees (a) to maintain its System in good repair and operating condition; (b) to cooperate with FGU in the performance of the respective obligations of such Member and FGU under this Agreement and all Financial Instruments; and (c) to establish, levy and collect rents, rates and other charges for the products and services provided by its System, which rents, rates, and other charges shall be at least sufficient (i) to meet the

operation and maintenance expenses of such System, (ii) to comply with all covenants pertaining thereto contained in, and all other provisions of, any resolution, trust indenture, or other security agreement relating to any bonds or other evidence of indebtedness issued or to be issued by Member, including, without limitation, all deposit requirements to pay debt service, fund debt service and operating reserves and to pay ongoing project costs hereunder, (iii) to generate funds sufficient to fulfill the terms of all other contracts and agreements made by Member, including, without limitation, this Agreement and Financial Instruments and to budget, appropriate and make all payments required hereunder in each fiscal year of Member during the term hereof, and (iv) to pay all other amounts payable from or constituting a lien or charge on the revenues of its System.

(b) Member further agrees that for good and valuable consideration and for the purpose of obtaining a source of gas supply upon favorable terms and price it will not take any action, except as permitted by Section 25(c) hereof, which will lead to its withdrawal, as a member of FGU or other termination of its membership in FGU during the term of this Agreement and that it will not vote for or otherwise participate in any action to dissolve or otherwise terminate the existence of FGU during the term of this Agreement.

(c) Member covenants that it will not make any sales of its Gas Allocation Share, or take any other action or omit to take any action, which, if taken or omitted, would adversely affect the exclusion of interest, on any obligations contemplated by clause (6) of the definition of Monthly Costs of Section 1 from gross income for Federal income tax purposes, of any holder thereof.

(d) Member hereby represents that it has not entered into, nor is it a party, directly or indirectly to, any contract, agreement or understanding, whether oral or written, the provisions of which would or might be breached by Member's execution of this Agreement or the performance by it of its obligations hereunder.

(e) Member hereby covenants that, unless and until it shall sell all or substantially all of its System in accordance with the provisions of Section 25(c) hereof, it will maintain its present existence as a public body to the full extent permitted by its charter and other governing instruments, the Constitution and laws of the State of Florida.

(f) Member hereby covenants that it will provide to FGU, or its designee, annually, promptly upon its preparation, but no later than one hundred eighty (180) days after the end of its Fiscal Year, a copy of its annual audit and such other financial and other records as may be required by the

issuer of any credit facility or other security instrument securing all or any part of FGU's obligations.

SECTION 13. Pledge of Payments.

All right, title and interest of FGU in, to and under this Agreement and all payments required to be made by Member pursuant to the provisions of Sections 3 and 4 hereof, and all other payments to be made in accordance with or pursuant to any other provision of this Agreement, may be pledged and assigned, subject to application in accordance with the provisions of any Financial Instrument, to secure the payment of any obligations of FGU authorized by this Agreement or Financial Products and Member hereby expressly acknowledges and consents thereto.

SECTION 14. Event of Default.

Failure of Member to make to FGU when due any of the payments for which provision is made in this Agreement shall constitute an immediate default on the part of Member.

SECTION 15. Continuing Obligation, Right to Discontinue Service.

In the event of any default referred to in Section 14 hereof, Member shall not be relieved of its liability for payment of the amounts in default and FGU shall have the right to recover from Member any amount in default. In enforcement of any such right of recovery, FGU may bring any suit, action, or proceeding in law or in equity, including mandamus, injunction, specific performance, declaratory judgment, or any combination thereof, as may be necessary or appropriate to enforce any covenant, agreement or obligation to make any payment for which provision is made in or contemplated by this Agreement or Financial Instrument, against Member, and FGU may, upon five (5) days written notice to Member, cease and discontinue, either permanently or on a temporary basis, providing all or any portion of the Gas sold hereunder or Member's Gas Allocation Share.

SECTION 16. Transfer of Gas Allocation Shares Following Default.

In the event of a default by Member and permanent discontinuance of service of Member's Gas Services Agreement pursuant to Section 15, FGU is hereby appointed the agent of Member for the purpose of disposing of Member's Gas Allocation Share and as such agent, FGU shall proceed to dispose of the defaulting Member's Gas Allocation Share as follows:

(a) FGU shall, as soon as possible, terminate any spot, short term or terminable supply of Gas.

(b) FGU shall then, with respect to long term or non-terminable Gas, offer to transfer to all other nondefaulting Members, a pro rata portion of the defaulting Member's Gas Allocation Share which shall have been discontinued by reason of such default. Any part of such Gas Allocation Share of a defaulting Member which shall be declined by any nondefaulting Member shall be reoffered pro rata to the nondefaulting Members which have accepted in full the first such offer; such reoffering shall be repeated until the defaulting Member's Gas Allocation Share has been reallocated in full or until all nondefaulting Members have declined to take any portion or additional portion of the defaulting Member's Gas Allocation Share.

(c) In the event less than all of a defaulting Member's Gas Allocation Share shall be accepted by the other nondefaulting Members, pursuant to clause (b) above, FGU shall, to the extent permitted by law, use its reasonable best efforts to sell the remaining portion of a defaulting Member's Gas Allocation Share for the remaining term of the defaulting Member's All Requirements Gas Services Agreement with FGU.

(d) Any portion of the Gas Allocation Share of a defaulting Member transferred pursuant to this Section to a nondefaulting Member in accordance with clause (c) above, shall become a part of and shall be added to the Gas Allocation Share of each transferee Member effective on and as the date of transfer, and the transferee Member shall be obligated to pay for its Gas Allocation Share increased as aforesaid, as if the Gas Allocation Share of the transferee Member in its All Requirements Gas Services Agreement with FGU had been stated originally to increase as aforesaid on the effective date of the transfer.

(e) In the event less than all of a defaulting Member's Gas Allocation Share shall be sold or transferred pursuant to the foregoing clauses of this Section 16, FGU shall, to the extent permitted by law, use its reasonable best efforts to sell the remaining portion of a defaulting Member's Gas Allocation Share on such terms and conditions as are acceptable to FGU.

The defaulting Member shall remain liable for all payments to be made on its part pursuant to this Agreement, except that the obligation of the defaulting Member to pay FGU shall be reduced to the extent that payments shall be received by FGU for that portion of the defaulting Member's Gas Allocation Share which may be transferred or sold as provided in this Section 16.

SECTION 17. Other Default by Member.

In the event of any default by Member under any other covenant, agreement or obligation of this Agreement other than Section 15 hereof,

which shall be governed by Sections 15 and 16 hereof, FGU may bring any suit, action, or proceeding in law or in equity, including mandamus, injunction, specific performance, declaratory judgment, or any combination thereof, as may be necessary or appropriate to enforce any covenant, agreement or obligation of this Agreement against Member. Such remedies shall be in addition to all other remedies provided for herein.

SECTION 18. Default by FGU.

In the event of any default by FGU under any covenant, agreement or obligation of this Agreement, Member's remedy for such default shall be limited to mandamus, injunction, action for specific performance or any other available equitable remedy designed to enforce any covenant, obligation or agreement of FGU hereunder as may be necessary or appropriate.

SECTION 19. Abandonment of Remedy.

In case any proceeding taken on account of any default shall have been discontinued or abandoned for any reason, the parties to such proceedings shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of FGU and Member shall continue as though no such proceedings had been taken.

SECTION 20. Waiver of Default.

Any waiver at any time by either FGU or Member of its rights with respect to any default of the other party hereto, or with respect to any other matter arising in connection with this Agreement, shall not be a waiver with respect to any subsequent default, right or matter.

SECTION 21. Relationship to and Compliance with Other Instruments.

(a) It is recognized by the parties hereto that FGU, in undertaking, or causing to be undertaken, the planning, acquisition, and supply of Gas hereunder, may be required to comply with the requirements of the Gas Purchase Contract, the Financial Instruments and all licenses, permits and regulatory approvals necessary therefor, and it is therefore agreed that the performance of FGU under this Agreement is made subject to the terms and provisions of the Gas Purchase Contract, Financial Instruments and all such licenses, permits and regulatory approvals.

(b) FGU covenants and agrees to use its best efforts for the benefit of Member to comply in all material respects with all terms, conditions and covenants of the Gas Purchase Contract and all licenses, permits and

regulatory approvals relating thereto. FGU shall diligently pursue all rights and remedies set forth in the Gas Purchase Contract.

SECTION 22. Measurement of Gas.

All Gas delivered hereunder shall be metered at the Point(s) of Delivery by meters operated by Transporter, or as the parties shall otherwise agree.

SECTION 23. Liability of Parties.

(a) Except as otherwise herein provided, FGU and Member shall each assume full responsibility and liability for the maintenance and operation of their respective properties and each shall, to the extent permitted by law, indemnify and save harmless the other from all liability and expense on account of any and all damages, claims, or actions, including injury to or death of persons arising from any act or accident in connection with the installation, presence, maintenance and operation of the property and equipment of the indemnifying party and not caused by the negligence of the other party; provided that any liability which is incurred by FGU hereunder and not covered, or not covered sufficiently, by insurance shall be paid solely from the revenues of FGU derived from sales of Gas and other services under this Agreement, and any payments made by FGU, or which FGU is obligated to make, to satisfy such liability shall become part of Monthly Costs.

(b) For purposes of any indemnification under this Section 23,

(i) promptly after the party seeking indemnification (the "Indemnified Party") learns of any event or circumstance, including, without limitation, any claim or assertion by a third party that, in the judgment of the Indemnified Party, may give rise to a claim for indemnification hereunder (each such claim being referred to as a "Loss" and collectively as "Losses"), the Indemnified Party shall deliver to the party from which indemnification is sought (the "Indemnifying Party") a certificate (the "Certificate"), which Certificate shall:

(1) state that the Indemnified Party has incurred or anticipates that it will incur a Loss for which such Indemnified Party is entitled to indemnification pursuant to this Agreement; and

(2) specify in reasonable detail each individual item of Loss included in the amount so stated, the date such item arose or was incurred, the basis for any anticipated Loss or Losses and the nature of the claim to which the Loss is related and the computation of the

amount to which such Indemnified Party claims to be entitled hereunder;

provided, however, that any failure or delay by the Indemnified Party in delivering a Certificate to the Indemnifying Party shall not affect the Indemnified Party's right to indemnification under this Section 23, except to the extent that the Indemnifying Party is able to establish damages resulting directly from such failure or delay.

(ii) If the Indemnifying Party objects to the claim for the indemnification by an Indemnified Party in respect of any Loss, the Indemnifying Party shall, within thirty (30) days after receipt by the Indemnifying Party of such Certificate, deliver to the Indemnified Party a written notice to such effect and the Indemnifying Party and the Indemnified Party shall, within the 30-day period beginning on the date of receipt by the Indemnified Party of such written objection, attempt in good faith to agree upon the rights of the respective parties with respect to each of such claim to which the Indemnifying Party shall have so objected. If the Indemnified Party and the Indemnifying Party shall succeed in reaching agreement on their respective rights with respect to any of such claims, the Indemnified Party and the Indemnifying Party shall promptly prepare and sign a memorandum setting forth such agreement.

(iii) Notwithstanding any provision hereof, if any claim for any Loss is asserted against FGU hereunder, FGU may, at its option, assume the defense of the Indemnified Party against such claim or may undertake any remedial action required in connection therewith or both (including the employment of counsel, and the payment of expenses), provided, however, that any failure or delay by the Indemnified Party in delivering such written notification to FGU of any such occurrence, event or circumstance, other than the filing of any such claim, action or proceeding, shall not affect the Indemnified Party's right to indemnification under this Section 23, except to the extent that FGU is able to establish its damages resulting directly from such failure or delay.

(iv) Until the Indemnifying Party shall have assumed the defense of the Indemnified Party against such claim following the delivery of such notice, the Indemnified Party may, but shall not be obligated to, undertake the defense of such claim on behalf of and for the account and risk of the Indemnifying Party, and if such Indemnified Party is entitled to indemnification under this Section 23, all legal or other expenses reasonably incurred by the Indemnified Party shall be borne by the Indemnifying Party.

(v) Any Indemnified Party shall have the right to employ separate counsel in any such action or claim and to participate in the defense

thereof, but except with respect to FGU, the fees and expenses of such counsel shall not be at the expense of the Indemnifying Party unless (i) the Indemnifying Party shall have failed, within ten (10) days after having been notified by the Indemnified Party of the existence of such claim as provided in the preceding sentence, to assume the defense of such claim or to notify the Indemnified Party in writing that it will assume the defense of such claim, or (ii) the employment of such counsel has been specifically authorized in writing by the Indemnifying Party, and in each case above, FGU whether as an Indemnifying Party or an Indemnified Party shall have the right to assume full control of the defense of the claim or Loss in the manner provided below.

(vi) An appealable final judgment will not give rise to an indemnification payment obligation if and only to the extent that the Indemnifying Party diligently undertakes an appeal of such final judgment and posts a supersedeas bond or takes other action which prevents the execution of the final judgment pending the appeal. Notwithstanding the foregoing (x) any liability or Loss incurred by FGU hereunder shall be paid in the manner provided above from the revenues of FGU derived from sale of Gas or other services hereunder, as a part of the Monthly Costs; (y) FGU shall in all events, at its option, have the right to assume the defense of any claim for any Loss whether against the Indemnifying Party or as an Indemnified Party and shall be entitled to be reimbursed for the full amount of any such costs of defense including fees and expenses of counsel in trial or on appeal; and (z) as a part of its control of the defense of any claim for Loss, FGU shall have the full right and authority to compromise or settle any such claim or Loss for and on behalf of and for the account and risk of the Indemnifying Party, the Indemnified Party and/or itself.

(vii) After any such claim has been filed or initiated, each party shall make available to the other and its attorneys and accountants all pertinent information under its control relating to such claim which is not confidential or proprietary in nature or which is made available under the terms of a confidentiality agreement or is delivered or obtained under appropriate protective orders satisfactory to such party and the parties agree to render to each other such assistance as they may reasonably require of each other in order to facilitate the proper and adequate defense of any such claim.

(viii) In no event shall the indemnification obligations of the Indemnifying Party under this Section 23, whether based on contract, warranty, tort (including negligence), strict liability or otherwise, extend to or include special, incidental, consequential or punitive damages of any kind whatsoever, except to the extent that the Indemnified Party is obligated to

pay any of such damages to a third party under any claim for which such indemnification is sought.

SECTION 24. Sale of Member's Excess Gas Allocation Share.

Unless Member shall specifically direct FGU to the contrary, FGU shall use its best efforts to terminate or sell and transfer on behalf of such Member for any period of time all or any part of such excess Gas to such other Member or Members as shall agree to take such excess Gas, at such prices as may be agreed to, provided, however, that in the event the other Members do not agree to take the entire amount of such excess, FGU shall have the right, to the extent permitted by law, to dispose of such excess to other parties. If all or any portion of such excess of the Gas sold hereunder or Member's Gas Allocation Share, is sold pursuant to this Section 24, Member's Gas and/or Gas Allocation Share and resulting payments hereunder shall not be reduced, and Member shall remain liable to FGU to pay the full amount due as if such sale had not been made; except that such liability shall be discharged to the extent that FGU shall receive payment for such excess from the purchaser or purchasers thereof and that any amounts received by FGU as payment for such excess which is greater than the liability owed by Member to FGU in respect of such excess shall be promptly paid by FGU to Member.

SECTION 25. Assignment of All Requirements Gas Services Agreement, Sale of Member's System.

(a) This Agreement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties to this Agreement; provided, however, that, except as provided in Section 16 hereof in the event of a default, and except for the assignment and pledge authorized by paragraph (b) of this Section 25 and for the assignments authorized by paragraph (c) of this Section 25, neither this Agreement nor any interest herein shall be transferred or assigned by either party hereto except with the consent in writing of the other party hereto.

(b) Member acknowledges and agrees that FGU may assign and pledge to any party to which it may be obligated hereunder or under the Financial Instruments, all its right, title, and interest in, to and under this Agreement, and all payments to be made to FGU under the provisions of this Agreement as security for payment of obligations thereunder, and may deliver possession of this Agreement to an agent of such party in connection therewith, and, upon such assignment and pledge, FGU may grant to such party any rights and remedies herein provided to FGU, and thereupon any reference herein to FGU shall be deemed, with the necessary changes in

detail, to include such trustee which shall be a third party beneficiary of the covenants and agreements of Member herein contained.

(c) Member agrees that, except as otherwise provided herein, it will not sell, lease, abandon or otherwise dispose of all or substantially all of its System except upon ninety (90) days prior written notice to FGU and, in any event, will not sell, lease, abandon or otherwise dispose of the same unless the following conditions are met: (i) Member shall, subject to the Gas Purchase Contract, assign this Agreement and its rights and interest hereunder to the purchaser or lessee of said System, if any, and any such purchaser or lessee shall assume all obligations of Member under this Agreement and shall have the financial capacity to do so; and (ii) FGU shall be permitted by then applicable law to sell Gas to said purchaser or lessee.

(d) Member, in making or accepting such assignment, shall agree to assume any costs incurred in reporting the assignment as a "material event" or such other event pursuant to the Rule or any successor provision, or any law, judicial decision, regulation, rule or policy now or hereafter imposed by the United States of America, the State of Florida, or any political subdivision or agency of either having jurisdiction over such matters, requiring any such reporting.

SECTION 26. Termination or Amendment of Contract.

(a) This Agreement shall not be terminated by either party under any circumstance, whether based upon the default of the other party under this Agreement or any other instrument or otherwise except as specifically provided in this Agreement.

(b) This Agreement shall not be terminated, amended, modified, or otherwise altered in any manner that will adversely affect the security for any obligations authorized by FGU afforded by the provisions of this Agreement upon which the owners from time to time of such obligations shall have relied or with respect to the obligations of the Gas Purchase Contract or Financial Instruments entered into by FGU, in its name, or on behalf of some or all of Members. So long as any of such obligations are outstanding or until adequate provisions for the payment thereof have been made in accordance with the provisions of the instruments authorizing such obligations, this Agreement or Financial Instruments, shall not be terminated, amended, modified, or otherwise altered in any manner which will reduce the payments pledged as security for such obligations or extend the time of such payments provided herein or which will in any manner impair or adversely affect the rights of the owners from time to time of such obligations.

(c) Except as otherwise provided for Special Projects, no All Requirements Gas Services Agreement entered into between FGU and another Member may be amended so as to provide terms and conditions substantially different from those herein contained, except upon written notice to and written consent or waiver by each of the other Members, and upon similar amendment being made to the All Requirements Gas Services Agreement of any other Members requesting such amendment after receipt by such Member of notice of such amendment. In such event, no such amendment shall cause any increase in Monthly Costs or other increased obligations or burdens to those Members who do not sign substantially similar amendments.

SECTION 27. Force Majeure.

(a) In the event that either FGU or Member ("Party" or "Parties"), is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement or any subsequent service agreement between the Parties contemplated herein, other than the obligation of Member to make payments due hereunder, including the payment of Monthly Costs and other amounts due under Sections 3 and 4, it is agreed that upon such Party giving notice and full particulars of such force majeure in writing to the other Party as soon as possible after the occurrence of the cause relied on, then the obligations of the Party giving such notice (other than the obligation to make payments due), so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused but for no longer period, and such cause shall as far as possible be remedied with all reasonable dispatch. It is further agreed that except for the obligation to make payments due, neither FGU nor Member shall be liable to the other for any damage occasioned by force majeure.

(b) In the event of any nonperformance caused by any of the forces described in clause (c) the Party affected shall within twenty-four (24) hours promptly notify the other Party verbally, and within two (2) working days of nonperformance provide the other Party with written confirmation of the nature, cause, date of commencement and anticipated extent of such nonperformance.

(c) The term "force majeure" as employed herein shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, freezes, washouts, arrests and restraints of governments and people, civil disturbances, explosions, breakage or accidents to machinery or lines of pipe, the necessity for making repairs or alterations to machinery or lines of pipe (other than regularly scheduled or routine maintenance), freezing of wells or lines of pipe, planned or unplanned

outages, disruptions or curtailments by Transporter, Member or other parties in the transportation of the Gas, partial or entire failure of source of supply, acts of civil or military authority (including, but not limited to, courts or administrative or regulatory agencies), and any other similar or related cause, whether or not enumerated herein, and whether caused or occasioned by or happening on account of the act or omission of FGU or Member or any other person or concern, not reasonably within the control of the Party claiming suspension and which by the exercise of due diligence such Party is unable to prevent or overcome; such term shall likewise include, without limitation;

(1) in those instances where either Party is required to obtain servitude, rights of way grants, permits or licenses to enable such Party to fulfill its obligations hereunder, the inability of such Party to acquire, or the delays on the part of such Party in acquiring, at reasonable cost and after the exercise of reasonable diligence, such servitude, rights of way grants, permits or licenses; and

(2) in those instances where either Party is required to furnish materials and supplies for the purpose of constructing or maintaining facilities or is required to secure grants or permissions from any governmental agency to enable such Party to fulfill its obligations hereunder, the inability of such Party to acquire, or the delays on the part of such Party in acquiring, at reasonable cost and after the exercise of reasonable diligence, such materials and supplies, permits and permissions.

(d) The settlement of strikes or lockouts shall be entirely within the discretion of the Party having the difficulty, and the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of the opposing Party when such course is inadvisable in the discretion of the Party having the difficulty.

(e) If a force majeure prevents or curtails FGU's delivery of Gas under the Gas Purchase Contract, FGU shall use reasonable efforts to locate and make available to Member Gas from an alternative source at the then prevailing prices as FGU may reasonably determine, until the force majeure affecting the supply of Gas has ended.

SECTION 28. Member Representative.

Member shall appoint from time to time by motion or resolution of its governing body and provide to FGU evidence thereof, and written notice of

the name, mailing address, telephone number and facsimile transmission number of one or more employees or agents with authority to give instructions required by this Agreement and otherwise exercise decisions by Member required under this Agreement (the "Member Representative").

(1) The Member Representative, or its designee as provided below, shall represent Member in giving and receiving notices and directives regarding the routine operational decisions, which decisions may be relied upon by FGU and shall be contractually binding upon Member.

(2) The Member Representative may also, if so stated, represent Member in giving and receiving notices, Directives and Addenda, taking actions or making decisions required or that may be exercisable under this Agreement, or approving and executing any Financial Products provided by any Financial Instrument hereunder, in each case, for and on behalf of Member. Such Financial Products may involve those risks and have characteristics similar to those set forth in Exhibit A hereto. The decisions of the Member Representative may be relied upon by FGU and such action and the due authorization, execution and delivery of such Directives or Addenda shall be contractually binding upon Member.

(3) The Member Representative may from time to time designate an operational representative to discharge its duties and obligations as set forth in subsection (1) above.

(4) Notices and directives between The Member Representative, its designee, and FGU may be transmitted orally when not required to be in writing, provided that all such notices and directives shall be promptly confirmed by a written notice as authorized by this Agreement.

SECTION 29. Special Projects.

The Member Representative and FGU may agree to undertake a Special Project hereunder on behalf of Member, in which event FGU shall maintain separate records for such Special Project. Other Members may be afforded an opportunity to participate on an equitable basis in a Special Project. When a Special Project is operational, FGU may maintain a separate, subsidiary operating account on, or otherwise separately track, each such Special Project which will demonstrate the financial relationship between the Special Project and FGU's general operating budget. Unless each Member shall become a party to an agreement substantially similar to

this Agreement, this Agreement and the undertakings hereunder shall create a Special Project.

SECTION 30. Notice and Computation of Time.

Any notice or demand under this agreement shall be in writing, and shall be deemed given in writing and properly given if sent by (i) telegraphic, cable or wireless transmission (including by telecopy, facsimile, e-mail or other electronic transmission, with appropriate hard copy being made available) or (ii) delivery to an overnight courier or delivery service company in a sealed prepaid wrapper, or (iii) certified mail, postage prepaid, in each case to the number or address set forth below, or to such other number or address as a party hereto may give the other by notice given in accordance with provisions in this section.

To FGU:

Florida Gas Utility
Attn: General Manager
The Bank of America Building
2815 N.W. 13th Street, Suite 200
Gainesville, Florida 32609

To Member:

City of Sunrise
10770 West Oakland Park Boulevard
Sunrise, FL 33351
Attention: Ruth Castellon, Finance Director

Unless otherwise specified herein, a notice is considered effectively given when it is received by the intended recipient, or when the intended recipient refuses delivery. If a notice is mailed by certified mail, or sent by courier or delivery service, to the address of the intended recipient specified above (or such other address as the intended recipient has previously specified in a written notice pursuant to the provisions hereof), the notice shall be presumed to have been received or refused by the intended recipient on the date indicated on the receipt or return invoice.

SECTION 31. Applicable Law; Construction.

This Agreement is made under and Shall be governed by the laws of the State of Florida. Headings herein are for convenience only and shall not influence the construction hereof.

SECTION 32. Severability.

If any section, paragraph, clause or provision of this Agreement shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall remain in full force and effect as though such section, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not been included herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers respectively, being thereunto duly authorized, and their respective seals to be hereto affixed, as of the day and year first above written.

FLORIDA GAS UTILITY

By: Katrina R. Vaylank
Title: General Manager

Attest:

Nancy Holloway
Title: Asst. Secretary

(Seal)

CITY OF SUNRISE, FLORIDA

Member

By: Steven B. Feren
Title: Mayor Steven B. Feren

Attest:

Kim Brown
Title: City Clerk
(Seal)

LAK1 #233101 v2
11/19/01

Exhibit A

CHARACTERISTICS OF FINANCIAL PRODUCTS

1. Types of Financial Products. The General Manager of FGU, in accordance with the Financial Derivatives Policy of FGU, may approve and the Member Representative shall approve on behalf of Member, Financial Products which may consist of the following, without limitation:

(a) Swaps. Fixed to floating swaps, pursuant to which the price of the Member's Allocable Share of Gas under the All Requirements Gas Services Agreement, is effectively converted from a fixed price of gas to a floating market price, based on industry standards, or a floating to fixed swap pursuant to which the cost of the Member's Allocable Share of gas under the All Requirements Gas Services Agreement is effectively converted from a floating market price determined under an applicable gas supply contract to a fixed price.

(b) Options, pursuant to which the cost of a Member's price of gas can be converted to a specified fixed or floating price in the future;

(c) Caps or Collars, pursuant to which a Member's price of gas may be capped at a certain price or index level, or may be allowed to fluctuate between a top and bottom price or index level, or both;

(d) Hedges, other derivative transactions that may provide for a balancing of the exposure to financial risks; and

(e) Futures Contracts, for the purchase or sale of natural gas that is traded for future delivery under exchange regulations.

2. Basic Document Format. The format for each of the Financial Products may include the Standard ISDA based Master Agreement (copyrighted in 1992 by the International Swap Dealers Association, Inc., as amended, changed or updated), and as amended by appropriate schedules and confirms.

3. Risks assumed in Financial Products. Inherent in Financial Instruments and the underlying Financial Products will be a variety of risks including, without limitation:

(a) Counterparty credit risks, including adverse financial changes in a counterparty (including bankruptcy) that would tend to negate the benefit of the Financial Product and may give rise to termination payments described below;

(b) Rate structuring risks where the payments to be received from the counterparty under the Financial Product may not exactly match the base payments the Member is otherwise obligated to pay under FGU's applicable Gas Purchase Contract;

(c) Termination risks which may trigger a payment obligation by FGU (which will be passed through to the Member under the All Requirements Gas Services Agreement or Financial Instrument), or a payment obligation directly by Member, if Member, rather than all Members, is obligated on the Financial Product, whether or not FGU or the Member causes or is responsible for the Termination. Terminations can arise from a variety of causes, including a default by either the Member or the counterparty, a downgrade in the credit rating of the counterparty, a counterparty merger pursuant to which the surviving entity either fails to assume the swap obligation or has a materially weaker financial condition, bankruptcy of the counterparty, defaults under other payment obligations by either the counterparty, or FGU or the Member, defaults by other participating Members under similar Financial Product transactions (to the extent applicable), and general illegality of the basic Financial Instruments.

Termination payments arising from any of the foregoing occurrences may be calculated under either a market quotation basis pursuant to which formal bids to "buy out of" the contractual obligation are required, or on a "Loss" basis pursuant to which the financial loss suffered by a party in connection with the Termination is subjectively determined by that party. Termination Payments may be subject to negotiation to require payments only where FGU or the Member is "at fault," rather than without regard to whether FGU or a Member is at fault in causing the Termination.

(d) Margin calls or other obligations to pay, related to Futures Contracts pursuant to which a Member shall be obligated to provide margin call requirements on short notice.

4. Netting issues pursuant to which payments owed by the counterparty under the Financial Instrument with respect to transactions entered into for a Member may be netted against other payments from the counterparty with respect to transactions for other Members.

Exhibit B
Description of System
(Including gas burning or distribution facilities)

SUNRISE NATURAL GAS SYSTEM

In 1973, the City acquired propane-vapor systems from Nationwide Utilities ("Nationwide Gas") and Uniflow Gas Co., serving as the foundation for the present natural gas distribution system.

The City's gas distribution system consists of approximately 172 miles of predominantly steel and plastic pipeline ranging in size from one inch to six inches, and services customers throughout the City. Sunrise also supplies natural gas to neighboring cities via service agreement and nonexclusive franchise. In addition, the Sunrise natural gas system serves City vehicles operating on natural gas and has opened its natural gas fuel stations to use by the private sector and the general public.

Natural gas supply is allocated by the Federal Energy Regulatory Commission and supplied by Florida Gas Transmission Company. By the late 1970's, the City's demand for natural gas had exceeded its allocation. However, in September 1983, the Federal Energy Regulatory Commission issued an order to remove restrictions on gas allocation for high priority customers, including residential, governmental, commercial and small industrial customers. During the final phase of deregulation gas allocations were reinstated with a substantial increase in volumetric entitlement.

As of May 2002, there exist approximately 9,700 meters online within the gas system. The system peak daily natural gas flow was 4,494 MCF, occurring in 1989. The City's current rate structure includes a formula that adjusts gas rates for fluctuations in the cost of purchased gas. Sunrise also has special gas rates for gas air conditioning and natural gas vehicle fuel.

Exhibit C

MEMBER OUTSTANDING OBLIGATIONS

NONE

Exhibit D

EXCLUDED RESOURCES

NONE

Appendix 1

SCHEDULE OF MEMBERS

City of Chipley
P.O. Box 1007
Chipley, Florida 32428

Clearwater Gas System
400 North Myrtle Avenue
Clearwater, Florida 33755

City of Fort Meade
8 West Broadway
Fort Meade, Florida 33841

Fort Pierce Utilities Authority
P.O. Box 3191
Fort Pierce, Florida 34948

City of Live Oak
101 S.E. White Avenue
Live Oak, Florida 32060

Palatka Gas Authority
P.O. Box 978
Palatka, Florida 32178

City of Perry
P.O. Drawer 1907, City Hall
Perry, Florida 32348

City of Williston
50 N.W. Main Street
Williston, Florida 32696

Appendix 2

MEMBER'S POINT OR POINTS OF DELIVERY

MEMBER

POINTS OF DELIVERY

FGU/Sunrise Gas Department

Meter ID: 0030274-19

Alt. Meter ID:

Meter Name: FGU-Sunrise

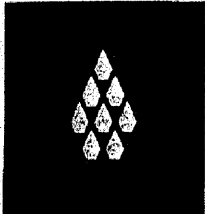
Alt. Meter Name:

DRN: 000002978

CITY CLERK
CITY OF SUNRISE

02 SEP 15 PM 3:43

September 11, 2002



Florida Gas Utility

The Honorable Steven B. Feren
Mayor of Sunrise, Florida
10770 W. Oakland Park Blvd.
Sunrise, FL 33351-6899

Re: All Requirements Gas Services Agreement ("GSA")

Dear Mayor Feren:

On behalf of Florida Gas Utility ("FGU") I have received original copies of the GSA executed by you on behalf of the City of Sunrise ("City"). In concluding these arrangements with the City, we have made one change to the definition of Monthly Gas Costs in Section 1 of the GSA concerning Financial Products. We have also had discussions with your counsel regarding several areas of concern to the City, particularly with respect to a potential sale of the City's System and the applicability of Section 25(c) of the GSA. By this letter I wish to address our discussions and understanding of how the issues you have raised might be clarified and advise how FGU will be likely to address these issues if they should arise in the future.

The General Manager of FGU is authorized by Section III of the City's existing Gas Services Agreement and Section 3(b) of the GSA to determine the sources from which the Gas and all other services to be provided under the agreements shall be provided, including the proper mix of firm gas supplies, spot gas supplies and long term gas supplies. FGU's primary interest is to ensure that the City remain obligated to purchase its requirements of Gas to fulfill FGU's commitments under any firm supply of Gas that may be allocated to the City. Therefore, if FGU has no firm supply contract for Gas in effect and the City wishes to sell its System to a private entity who has existing customers and gas supply contracts, FGU would not enforce the all requirements obligations of the GSA upon the assignee of the City. It is also likely that the Board of FGU would waive any remaining term of the GSA should the City effect such a sale of its System so that the GSA could be terminated. In any event, the requirements obligation of the GSA would only apply to the City's existing allocation of Gas where the assignee of the City would have customers and gas supply contracts.

4619 NW 53rd Avenue
Gainesville, Florida 32606
Telephone: 352/334-0770
Fax: 352/334-0789
e-mail: mail@fgas.com

As discussed above, the City's existing Gas Service Agreement and the proposed GSA each give FGU full authority to determine the sources from which Gas will be provided to its Members. While neither of the agreements preclude the use of tax exempt financing by FGU to purchase or prepay for a firm supply of Gas, this decision would require the action of its Board, and practically speaking, FGU could not undertake such a financing without extensive modifications to the GSA, including the negotiation of take-or-pay obligations by the City. Thus, the City should be in a position to determine whether or not it wishes to be involved in such a Special Project. Other than the private activity limitations that might be involved in a tax exempt financing, there is no practical limit or restriction on the sale of Gas by FGU to a private entity assignee of the City.

Capitalized terms used in this letter and not otherwise defined, shall have the meanings set forth in Section 1 of the GSA.

I trust that the foregoing clarifications are responsive to your concerns. These are the positions I would recommend as General Manager and are the positions I believe would be taken by FGU in its implementation of the GSA.

Sincerely yours,

FLORIDA GAS UTILITY

A handwritten signature in cursive script, reading "Katrina R. Vaughan".

Katrina R. Vaughan
General Manager

LAK1 #238536 v1